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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

NOTIFICATION DATE

DELIVERY MODE

06/18/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/831,279 | Applicant(s) LAIJOKI-PUSKA, RITVA | |
| | Examiner BASIL KATCHEVES | Art Unit 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-8 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4-8, and 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Pending claims 2, 4-8, and 10-19 are examined below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4-8 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,709,099 to Blades et al. as in the previous action.

Regarding claim 4, Blades discloses a spatial structure, inherent with walls and a ceiling, arranged for leisure (abstract) comprised of several separate spaces having different uses, inherently capable of being used for leisure, individual rooms having outer walls, and connected to a main common wall such as that of the main structure outer wall, and different regulated climates (column 3: lines 48-57), one of the climates being a Nordic type climate (frozen water in Abstract). However, Blades does not particularly disclose the use of rooms which are capable of simultaneously maintaining a different temperature than that of the Nordic like ice area. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include

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restrooms, eating facilities and utility rooms within the building, as these rooms are essential to operation of buildings and for housing people and commonly found within buildings. These rooms are inherently used at temperatures considered comfortable to people. Restrooms, utility rooms and eating facilities require a temperature which is higher than freezing.

Regarding claims 2, 5 and 13, Blades discloses separate spaces for different functions (column 3, lines 48-57) all enclosed in the same ice rink facility with temperatures which differ from each other.

Regarding claim 6, Blades discloses natural type areas (column 4, lines 25-30).

Regarding claim 7, Blades discloses a winter or summer temperature within the facility (Abstract- swimming or skating conditions are interchangeable).

Regarding claim 8, Blades discloses a space with water which includes an ice cover (column 9, lines 20-45).

Regarding claim 10, Blades discloses a method of presenting different climates from different geographies (Abstract- see ice skating and swimming features of facility). The air being regulated to freeze water or to provide a comfortable atmosphere for swimming, all enclosed in a conventional building (column 10, line 52). Also, the structure is inherently capable of being used for dwelling or presentation. The spaces within the building are for presentation, the climatological conditions inside the building will be of at least two different geographic location, one being Nordic (the ice rink) and other rooms, such as restrooms or eating halls, would be of a geographic location having a warmer temperature than that of a Nordic environment.

Regarding claim 11, Blades discloses the temperatures as changing in order to accommodate swimming, ice skating or other recreational activities.

Regarding claim 12, Blades discloses a pool structure having a refrigerating (column 9, lines 20-30) system.

Regarding claim 14, Blades discloses a transparent wall (fig. 1: 25) for observation.

Regarding claim 15, Blades discloses a heating and refrigeration system as disclosed in the claims above and found in column 9. Refrigeration systems and heat systems inherently generate excess heat, as do typical electrical and gas temperature control systems.

Regarding claim 16, Blades discloses more than one main section with at least one section including a refrigerated area (fig. 8: see ice rink area and adjacent building page 111).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,709,099 to Blades et al. in view of Russian Patent RU 2,116,097 to Petrovich et al. as in the previous action.

Regarding claim 17, Petrovich discloses an enclosed area for sports which includes at least four areas having plants (Drawing 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Blades by adding plants in various areas, as disclosed by Petrovich, in order to increase the aesthetics of the structure, as plants are commonly found inside buildings and frequently used to enhance the aesthetics of the interior.

Regarding claim 18, Blades discloses a pool.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,709,099 to Blades et al. in view of U.S. Patent No. 5,241,830 to Morioka et al.

Regarding claim 19, Blades discloses a facility for used for multi purpose recreation such as skating. However, Blades does not disclose a ski slope as one of the recreations. Morioka discloses an indoor ski slope (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Blades by inserting the ski slope of Morioka in order to simulate an outdoor skiing climate in areas without snow.

Response to Arguments

Applicant's arguments filed 2/20/08 have been fully considered but they are not persuasive. The applicant argues that the prior art, Blades, is not capable of simultaneously maintaining different temperatures than that of a Nordic like ice area. The applicant should note that the claims are drawn to a structural limitation of "Nordic or Arctic area". This limitation is broad since such conditions may range from a blizzard of sub zero temperatures to merely chilled water. The limitation claimed may encompass most geographic climates. As an example, the country of Iceland contains thermal springs which provide waters having hot temperatures. Therefore hot water may be construed as meeting the claimed limitations of claims 4

and 10. Also, the applicant should note that different rooms of buildings are typically controlled, thermally, on either a floor to floor basis or even room to room basis.

The applicant argues that the structure can not have more than one climate.

However, a restroom would inherently be warmer than an ice rink. Also, looking to figure 8, the pool of 126 may be of different temperature than pool 124. As mentioned above, the limitation of a Nordic climate may be translated as broadly as being chilled or even warm.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635